

Office of Personnel Management

§ 831.1112

§ 831.1106 Hearing.

(a) OPM's hearing examiner shall preside at any hearing held pursuant to this subpart, unless OPM designates another presiding officer. The presiding officer shall fix the time and place of the hearing after giving due consideration to the convenience of the annuitant. The hearing is open to the public unless otherwise ordered by OPM or the presiding officer.

(b) The hearing shall be recorded by an official reporter designated by OPM. OPM shall furnish to the annuitant, without charge, a copy of the transcript of the hearing.

§ 831.1107 Powers of presiding officers.

The presiding officer may:

- (a) Administer oaths and affirmations;
- (b) Rule upon offers of proof and receive relevant evidence;
- (c) Fix the time and place of hearing;
- (d) Regulate the course of the hearing;
- (e) Exclude any person from the hearing for contumacious conduct or misbehavior that obstructs the hearing;
- (f) Hold conferences for simplification of the issues, or for any other purpose;
- (g) Dispose of procedural requests or similar matters;
- (h) Authorize the filing of briefs and set the time for filing;
- (i) Make initial decisions; and
- (j) Take any other action in the course of the proceeding consistent with the purposes of this subpart.

§ 831.1108 Witnesses.

(a) Witnesses shall testify under oath or affirmation and shall be subject to cross-examination.

(b) Each party is responsible for securing the attendance of his witnesses. OPM has no power of subpoena in these cases.

§ 831.1109 Evidence.

(a) Rules of evidence are not strictly applied, but the presiding officer shall exclude irrelevant or unduly repetitious evidence.

(b) Each exhibit of a documentary character shall be submitted to the presiding officer, duly marked, and made a part of the record. An exhibit

does not become evidence unless received in evidence by the presiding officer.

§ 831.1110 Initial decision.

(a) Upon completion of a hearing pursuant to § 831.1106, the presiding officer shall make and file an initial decision, a copy of which shall be served on each party or counsel by certified or registered mail.

(b) The initial decision shall include a statement of findings and conclusions, with the reasons therefor, and shall be based upon a consideration of the entire record.

(c) The initial decision shall become the final decision of OPM unless the case is appealed or reviewed pursuant to § 831.1111.

§ 831.1111 Appeal and review.

(a) An appeal from an initial decision, or a decision of the Associate Director under § 831.1105(b), may be made to OPM, with service on the other party, within 30 calendar days from the date of the decision. An appeal shall be in writing and shall state plainly and concisely the grounds for the appeal, with a specific reference to the record when issues of fact are raised. The other party may file an opposition to the appeal within 15 days after service on him. On notice to the parties, OPM may extend the time limits prescribed in this paragraph.

(b) Within 30 calendar days from the date of an initial decision or a decision of the Associate Director, OPM, on its own motion, may direct that the record be certified to it for review.

[34 FR 17618, Oct. 31, 1969]

§ 831.1112 Final decision.

(a) On appeal from or review of an initial decision or a decision of the Associate Director, OPM shall decide the case on the record. The record shall include the notice, answer, transcript of testimony and exhibits, briefs, the initial decision or the decision of the Associate Director, the papers filed in connection with the appeal and opposition to the appeal and all other papers, requests and exceptions filed in the proceeding.